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SUBJECT: TIP INTERIM ASSESSMENT FOR SRI LANKA

REF: STATE 109260

¶1. Post assesses that the Government of Sri Lanka (GSL) has taken many positive steps to address Sri Lanka's trafficking problem. These efforts have mainly focused on the foreign employment of Sri Lankans, building awareness of trafficking, and increasing interagency coordination to counter trafficking. Nevertheless, the GSL does face a host of problems which constrain its ability to fully address all of its deficiencies in the area of trafficking. Specifically, Sri Lanka has an extremely inefficient legal system and faces both serious resource constraints and a lack of awareness among government officials and the public of the dangers of trafficking.

Criminal Investigations and Prosecutions

¶2. There have been no convictions by the GSL under its 2006 Amendment to its penal code, which defined trafficking as a crime for the first time. However, the lack of convictions should not be viewed as a lack of commitment on the part of the GSL to combat trafficking. Instead, it's reflection of an antiquated and extremely inefficient legal system. On average, a case takes approximately two years between an arrest and indictment. A conviction can take two or three times as long to achieve. In addition, there is a serious lack of awareness among law enforcement personnel and the judiciary of the trafficking problem. As a result, police are not adequately trained in how to investigate trafficking crimes nor are they trained in proper evidence collection. This applies, however, to all crimes, not just trafficking offences. Overall, the conviction rate in Sri Lanka is only 4%. An example of the slowness of the Sri Lankan justice system is the case of H. Amaradasa. He was a music teacher in Galle and was arrested in 1996 for child abuse. He used his position as a teacher to transport 8-10 boys to another city in the south for sexual exploitation by foreigners. He was convicted, but not until 2001. He was sentenced to 104 years in prison.

¶3. National Child Protective Authority (NCPA): There have been 13 arrests in 2008 for underage recruitment of girls to work as domestics in the Middle East according to the NCPA. In addition, there are three other cases pending in the courts which are being prosecuted in conjunction with the NCPA, which is tasked with handling all offenses related to the mistreatment of children, including non-trafficking cases. The first case dates back to 2002 and is expected to result in a conviction by the end of 2008.

¶4. Foreign Employment Bureau (FEB): There have been 22 cases so far this year prosecuted by the FEB against businesses operating without a valid license. Of these, three have been settled with fines of 25,000 rupees (\$250). The other 19 cases are still pending. In addition, the FEB has 12 police officers assigned to its Investigations Unit, which has recently been conducting an average of three raids a week on bogus recruitment agencies.

¶5. We are unable to obtain a total number of investigations launched in 2008 from the police or a total number of trafficking cases prosecuted in 2008 from the Attorney General's office because they do not have computerized records to track offenses and trafficking crimes are not disaggregated from other criminal violations. However, there do appear to be cases which might be considered trafficking, but as of the time of this report, the GSL has not been able to provide Post with this data. We are therefore unable to assess whether the GSL has increased the overall number of investigations and prosecutions from 2007 to 2008. The IOM, with assistance of British High Commission, has created a database for

use by the GSL, which should address this situation in the coming years.

Identification and Protection of Trafficking Victims

¶6. The GSL has made concerted efforts at building awareness of the trafficking problem among government officials and the general public. While the initial impetus for these efforts was the G/TIP and USAID grants to the International Organization for Migration (IOM), since that time the GSL has continued to build on this work. Most recently the Sri Lankan Police added a trafficking training module (drafted with IOM support) to be taught to all police recruits during their basic training at the national police college and to the police's other two higher level training institutes. In addition, the FEB has sought to supplement its meager 12 man enforcement/investigation unit by convening a nationwide meeting of police in Colombo. Approximately 500 police attended this session, one mid-level officer from each police station in the country. The aim was to build awareness of trafficking and to leverage the resources of local law enforcement to enhance the ability of the FEB to identify and take action against traffickers. This will be followed up by several regional meetings held throughout the country starting in December 2008. For the general public, the GSL launched a public awareness campaign in October 2008 which sought to inform the public of the dangers of using illegal recruitment agencies.

Financial or in-kind Assistance for Trafficking Victims

¶7. Assistance to trafficking victims has two sources within the GSL: the FEB and the NCPA. The FEB collects fees from registered workers who are going abroad. These fees are used to run shelters abroad, as well as domestically at Bandaranaike International Airport; to provide training to workers before they depart; and to provide other assistance to overseas Sri Lankan workers, such as repatriation services, even for those who worked abroad without registering with the FEB. The NCPA runs five schools certified to rehabilitate children trafficked for sex work. The schools offer counseling and vocational training to victims.

Encouragement of Victim Participation in Investigations

¶8. According to the GSL, victims are afforded immunity if they agree to testify against their trafficker. In addition, for children, recorded testimony is now admissible in courts. The child would still need to appear for cross examination, but this does help address part of the GSL's problem with the collection of evidence. However, according to officials in the NCPA, the real problem is how to encourage victims to assist in investigations against traffickers because many times the trafficking is done with the full knowledge and consent of family members. As a result, the police have difficulty convincing people to speak out or provide information to arrest traffickers. If the names of the traffickers are known and provided to police, the facilitators have usually only told the family their first name and have not provided any contact details. The result is that often the police simply don't have enough information to go after the traffickers.

Providing Sri Lankan Migrant Workers Information on Their Rights and Resources in Destination Countries

¶9. Providing public awareness to workers traveling abroad is an area in which the FEB has excelled. The FEB printed booklets in November 2008 in Sinhala and Tamil advising workers headed to the Middle East of their rights and responsibilities. In addition, all foreign employment contracts must be signed by the FEB, the worker, and the recruitment agent in the presence of an FEB officer. This procedure allows the FEB officer to ensure that the worker understands the terms of the contract and permits closer scrutiny of agents and subagents. The FEB also requires training prior to departing for foreign employment.

Other Developments

¶10. National Policy on Migration: A National Policy on Migration was presented to the Sri Lankan President on November 8, 2008 by the Ministry of Foreign Employment Promotion and Welfare. The policy was the result of a GSL interagency process with input from the International Organization for Migration. Its stated goal is to develop a long-term vision for the role of labor migration in the

economy; to enhance the benefits of labor migration on the economy, society, the migrant workers and their families and to minimize its negative impacts; and to work towards the fulfillment and protection of all human and labor rights of migrant workers. The national policy aims to promote employment opportunities for Sri Lankans through the institution of policies, laws, regulations, services and facilities for migrant workers and their families. Special emphasis is laid on the development of skills as an effective means of protection for migrant workers and their families. The policy has three sections: 1) governance of the migration process; 2) protection and empowerment of migrant workers and their families; and, 3) linking migration and development processes. Each of the sections has a detailed list of the challenges and policy responses and an action plan for addressing them. Post believes that this policy is an important step for the GSL to take in order to systematically address its deficiencies in the trafficking as it relates to migrant workers.

¶11. Memorandums of Understanding: MOUs have been signed with Bahrain, Jordan, Libya, Qatar, South Korea, and the United Arab Emirates. They are focused on protecting the rights of Sri Lankan workers abroad in these countries.

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